



STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
JEFFREY R. VONK, DIRECTOR

CERTIFIED MAIL

January 9, 2004

Deb Schiel-Larson
City of Johnston
6221 Merle Hay Road
P.O. Box 410
Johnston, IA 50131

RE: Draft NPDES Permit No. 77-40-0-02

Dear Ms. Schiel-Larson:

Please find enclosed the draft National Pollutant Discharge Elimination System (NPDES) permit for the discharge of storm water from your municipal separate storm sewer system. Please read and follow the enclosed instructions for completing the public notice requirements and return the enclosed certification form with a proof of publication, the fee payment form and the appropriate fee, either \$300.00 for one year or \$1250.00 for five years, to this office.

If you have any questions or comments concerning this matter please contact me at 515-281-7017.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph D. Griffin".

Joseph D. Griffin
Wastewater Section
Environmental Protection Division

Enclosures: 1) Draft permit 2) 3 public notices 3) 1 Public notice certification 4) 1 Payment form

cc: Field Office #5
Ralph Summers, EPA Region VII

NPDES INDIVIDUAL STORM WATER PERMIT

FEE PAYMENT FORM

NPDES DRAFT PERMIT NUMBER

77-40-0-02

DISCHARGER NAME AND ADDRESS

City of Johnston

6221 Merle Hay Road

P.O. Box 410

Johnston, IA 50131

LOCATION: Polk County, Iowa

The permit fee is \$1,250.00. This fee will provide coverage from the date of issuance for a period of five years. Return your public notice certification and this form with a check or money order payable to the "Iowa Department of Natural Resources".

Mail all correspondence to:

Storm Water Coordinator
Iowa Department of Natural Resources
Environmental Protection Division
502 East 9th Street
Des Moines, Iowa 50319-0034

PUBLIC NOTICE PROCEDURES AND CERTIFICATION

Enclosed are three copies of a public notice prepared by the Department stating our proposal to reissue a NPDES permit. In addition to the distribution of this notice already made by the Department, you are required by the Iowa Administrative Code to circulate the public notice in the following manner:

1. Post a copy of the public notice in the post office, library, city hall and/or other public places within the city.
2. Post the public notice at your facility.
3. Publish the public notice in the local newspapers for one day at your own expense.

You must publish and post the notice no later than 15 days from the "Notice Date" shown on the enclosed notice and the posted notices should remain in place for 45 days from the "Notice Date".

The notice that you publish must contain all of the information shown on the attached page entitled "National Pollutant Discharge Elimination System".

Please complete the certificate below and return it with a copy of the published notice to: **Storm Water Coordinator, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319.** The copy should identify the date the notice appeared in print and the name of the publication.

CERTIFICATE	
This is to certify that the public notice has been circulated in accordance with the above instructions.	
SIGNATURE	TYPED OR PRINTED NAME
TITLE	DATE POSTED

IOWA DEPARTMENT OF NATURAL RESOURCES
National Pollutant Discharge Elimination System
Notice Date: 1/16/2004

The Iowa Department of Natural Resources is proposing to issue a NPDES (National Pollutant Discharge Elimination System) permit for the discharge described below:

DISCHARGER NAME AND ADDRESS

City of Johnston
6221 Merle Hay Road
P.O. Box 410
Johnston, IA 50131

LOCATION: Polk County, Iowa

RECEIVING STREAMS: Des Moines River and Beaver Creek

The Des Moines River is a class A1 and B(WW) stream. Class A1 streams are waters in which primary contact recreation occurs. Class B(WW) streams are waters which are considered significant resource warm water streams. Beaver Creek is a class B(LR) stream which is considered a limited resource warm water stream.

DESCRIPTION OF PROPOSED PERMIT: The permit will authorize the discharge of storm water from the municipal separate storm sewer system. Runoff water will normally be collected and discharged to the Des Moines River and Beaver Creek.

Anyone wishing to comment on or object to the proposed permit must do so in writing within 45 days of the date shown at the top of this notice. All comments received will be considered in the final decision to issue or deny the permit. If no objections are received within 45 days, the Department will issue a final permit. You may request that the Department hold a public hearing by submitting a written request citing specific reasons and a proposed list of topics to cover.

Comments, objections, and requests for hearings must be addressed to: **Department of Natural Resources, Environmental Protection Division, Wastewater Section, 502 East 9th Street, Des Moines, IA 50319.**

Copies of this notice, the proposed permit and other information are on file and available for public inspection from 8:00 AM to 4:30 PM Monday through Friday at the above address.

PUBLIC NOTICE FOR NPDES PERMITS

IMPORTANT

TIME SENSITIVE MATERIALS ARE INCLUDED IN THIS PACKAGE. PLEASE REVIEW AND RESPOND WITHIN SPECIFIED TIME FRAME. ISSUANCE OF THE FINAL PERMIT FOR YOUR WASTEWATER FACILITY DEPENDS ON RECEIPT OF THE PROOF OF PUBLICATION AS DESCRIBED IN THE PACKAGE.

PART I. DISCHARGES AUTHORIZED UNDER THIS PERMIT

A. Permit Area

This permit covers all areas within the boundaries of the City of Johnston totaling approximately 15.8 square miles which is drained by the city's Municipal Separate Storm Sewer System (MS4) and any other areas added while this permit is in effect.

B. Authorized Discharges

This permit authorizes all existing or new storm water point source discharges to waters of the State from the MS4. This permit also authorizes the discharge of storm water commingled with flows contributed by process wastewater, non-process wastewater, or storm water associated with industrial activity provided such discharges are authorized under separate NPDES permits, as required by law. This permit does not authorize discharges to the MS4.

C. Limitations on Coverage

The following discharges are not authorized or regulated by this permit:

Storm water discharges that are mixed with non-storm water and storm water associated with industrial activity except where such discharges are:

1. in compliance with a separate NPDES permit; or
2. identified by and in compliance with Part IV. of this permit.

PART II. STORM WATER POLLUTION PREVENTION & MANAGEMENT PROGRAM

The permittee shall implement the Best Management Practices (BMPs), measurable goals, implementation dates and frequencies described in the following sections.

A. Public Education and Outreach on Storm Water Impacts

The permittee shall implement a public education and outreach program about the impacts of storm water discharges and measures which the residents of the permittee can implement to reduce pollutants in storm water runoff that includes the following:

1. General Storm Water Education Brochure – An informational brochure shall be developed and distributed to all residents and businesses served by the MS4. The brochure shall present information regarding storm water impacts on water quality and measures residents can implement to reduce water quality degradation from storm water. Additional information shall be included as appropriate. Additional information may be included as articles in monthly city newsletter.

The brochure shall be distributed by the Administration Department beginning no later than March 1, 2005 and to new residents and businesses for the remainder of the duration of the permit.

2. Storm Drain Stenciling -- A program shall be developed to label all storm sewer intakes. All intakes shall be marked within five years of the issue date of the permit with approximately 20% of the existing intakes each year and all new intakes as constructed.

The stenciling shall commence no later than September 1, 2004 by the Public Works Department and all intakes shall be labeled no later than the expiration date of the permit. The labels shall be re-applied as needed to maintain legibility.

3. Establish Website -- The permittee's website shall contain information regarding storm water impacts on water quality, measures residents can implement to reduce pollutants in storm water, regulations, current local topics and links to other relevant websites. A form for reporting storm water complaints shall be provided on the website. The website shall be updated as needed.

The website shall be maintained by the Public Works Department for the duration of the permit.

B. Public Involvement and Participation

The permittee shall implement a public involvement and participation program that includes the following:

1. Water Quality Monitoring -- The permittee shall organize volunteers to conduct storm water quality monitoring of storm water discharges and receiving streams. The data from the monitoring shall be made available to members of the public and to the Department as requested.

The monitoring activities shall begin no later than March 1, 2005 and continue for the duration of the permit.

2. Stream Restoration Activities -- The permittee shall sponsor stream restoration activities to remove refuse from local waterways and the MS4. The permittee shall work with local groups and notify the public about these events.

Cleanup activities shall be sponsored by the Public Works Department at least three times each calendar year beginning no later than May 1, 2005.

3. Establish Stakeholders Group -- The permittee shall establish a stakeholders group to participate in decision making, holding public hearings and working with volunteer groups. Business representatives, developers, homeowners, members of environmental groups and members of the public at large shall be allowed to participate, if interested. However, the permittee may place reasonable limits on the total number of individuals participating in the group.

The group shall be established by the Public Works Department no later than March 1, 2005 and meetings held once each calendar year for the duration of the permit.

C. Illicit Discharge Detection and Elimination

The permittee shall develop, implement and enforce a discharge detection and elimination program that includes the following:

1. **Illicit Discharge Prohibition Ordinance** – An ordinance shall be adopted by the permittee that prohibits anything other than storm water, allowable non-storm water and pollutants for which an NPDES permit has been issued and when the discharge is in compliance with the permit from entering the MS4. The ordinance shall include penalties for non-compliance.

The ordinance shall be adopted no later than March 1, 2005 and enforced by the permittee for the remainder of the duration of the permit.

2. **Illicit Discharge Detection and Elimination Program** – A program shall be developed to identify and eliminate illicit discharge to the MS4. The program shall include annual dry weather flow inspections of all known outfalls, sampling and analyses of dry weather flows, procedures to identify the sources of the dry weather flows and procedures for disconnecting illicit connections. Records shall be kept of when inspections are performed, the results of the inspections and measures taken to identify and, when appropriate, eliminate the sources of any dry weather flows. The plan shall be evaluated annually to assess the effectiveness of the program and any necessary changes made. All illicit discharges found must be eliminated no more than 21 days after discovery. All illicit discharges shall be reported to the Department no later than the end of the first business day after the day of the discovery.

The plan shall be developed and implemented by the Public Works Department no later than March 1, 2005 and for the remainder of the duration of the permit.

3. **Storm Sewer System Map** – All outfalls and intakes of the MS4 shall be mapped. Approximately 20% of existing intakes and outfalls shall be mapped each year of the permit. New intakes and outfalls added during the term of the permit shall be mapped as they are constructed.

The mapping shall be commenced by the Public Works Department no later than March 1, 2004 and shall be completed no later than the expiration date of the permit.

4. **Household Hazardous Waste Collection Day** – The permittee shall continue to sponsor a household hazardous waste collection day during which the city shall collect and properly dispose of household wastes from residents.

The collection day shall be held by the Public Works Department at least once each calendar year for the duration of the permit.

D. Construction Site Storm Water Runoff Control

The permittee shall develop, implement and enforce a construction site storm water runoff control program to reduce pollutants in any storm water runoff from construction activities for which storm water permit coverage is required and that includes the following:

1. Construction Site Runoff Control Ordinance – An ordinance shall be developed and enforced on all sites for which NPDES permits are required that requires proper soil erosion and sediment control. This ordinance shall also address waste at construction sites that may cause adverse impacts to water quality such as building materials, concrete truck washout, chemicals, solid waste and sanitary waste. Authority to issue an order to terminate activities due to failure to implement or maintain pollution control BMPs and penalties for non-compliance shall be included. The ordinance shall require site plan and pollution prevention plan review and approval by the permittee prior to issuance of any permits for the site by the permittee. The ordinance shall require compliance with the Department's Storm Water General Permit no. 2 and inspections by the permittee of all sites for which coverage under General Permit no. 2 is required. The ordinance shall require each of these sites be inspected by the permittee at least once each calendar quarter and within 7 calendar days of every 0.5 inch or greater rain event.

The ordinance shall be adopted or amended by the permittee no later than March 1, 2005 and enforced by the Public Works Department beginning no later than March 1, 2005 for the remainder of the duration of the permit.

E. Post-construction Storm Water Management

The permittee shall develop, implement and enforce a program to address storm water runoff from new construction and re-construction projects for which storm water coverage is required. The program must ensure that controls are in place that will prevent or minimize water quality impacts and shall include the following:

1. Construction Site Runoff Control Policy Ordinance – An ordinance shall be adopted which will address the control of runoff from building activities after construction has been completed. The ordinance shall require water quality and quantity components be considered in the design of new construction and implemented when practical. The ordinance shall promote the use of storm water detention and retention, grass swales, bioretention swales, riparian buffers and proper operation and maintenance of these facilities.

The ordinance shall be adopted by the permittee no later than March 1, 2005 and enforced by the Administration Department no later than March 1, 2006 and for the remainder of the duration of the permit.

2. Inspection of Runoff Control Devices – Storm water control devices and structures shall be inspected and reviewed for proper maintenance. Educational materials shall be developed and made available to landowners which outline proper maintenance procedures. The permittee shall properly maintain its own control devices and structures.

Inspections shall be conducted by the Public Works Department at least twice each calendar year beginning no later than March 1, 2004 for the remainder of the duration of the permit. The educational materials shall be developed by the Public Works Department no later than March 1, 2005 and made available for the remainder of the duration of the permit.

3. Watershed Assessment Program – A watershed assessment program and comprehensive land use plan shall be developed which outlines measures to be implemented which reduce flooding, reduce erosion in ditches and streams, improve water quality and reduce

degradation of habitat for fish and wildlife. The permittee shall then implement the program whenever possible to meet these goals.

The program shall be established by the permittee no later than March 1, 2005 and implemented by the Public Works Department for the remainder of the duration of the permit.

F. Pollution Prevention/Good Housekeeping

The permittee shall develop and implement an operation and maintenance program, including a training component, that shall prevent or reduce pollutant runoff from municipal operations and that shall include the following:

1. Operation and Maintenance of MS4 - A program for inspecting, maintaining and cleaning all components of the MS4 including street sweeping shall be implemented. All components of the MS4 shall be inspected at least once every five years and maintenance performed as appropriate

The program shall be implemented the Public Works Department no later than March 1, 2005 and for the remainder of the duration of the permit.

2. Pesticide and Fertilizer Management Program - A pesticide and fertilizer management program shall be developed, implemented and enforced which shall reduce pollutant discharge associated with storage, application and disposal of pesticides and fertilizers for municipal operations. The program shall identify all entities that apply pesticides and fertilizers, require that application of these chemicals be applied by properly trained individuals, require training on management techniques addressing storage, application and disposal. Data regarding the application rates of pesticides and fertilizers shall be gathered and evaluated to determine if lower rates would be equally effective. Should it be determined that lower application rates would be equally or nearly as effective it shall be required that the lower rates be applied.

The program shall be developed by the Public Works Department no later than September 1, 2004 and fully implemented no later than March 1, 2005.

3. Training Program for Municipal Employees - The permittee shall develop an operations manual and program for training municipal employees regarding practices to be implemented in city operations to reduce pollutants in storm water.

The program shall be developed and implemented by the Public Works Department no later than March 1, 2005 and for the remainder of the duration of the permit.

4. Pet Waste Ordinance - An ordinance shall be developed and enforced that addresses the cleanup of pet feces. The ordinance shall requires owners of pets to remove their pets' feces immediately after being deposited on public property or the property of another person and within a maximum of 48 hours after being deposited on the owners' property. The ordinance shall also require the disposal of the feces in either the municipal trash collection system or the sanitary sewer system. Exemptions for manure from agricultural livestock when used for horticultural purposes may be included in the ordinance.

PART III. REPORTING REQUIREMENTS

Annual Report

The permittee shall prepare an annual report to be submitted to the Department no later than March 31 of each calendar year with the first report due in calendar year 2005. The report shall include the following:

1. The status of implementing the components of the storm water pollution prevention and management plan. Any modifications developed by the permittee and approved by the Department or required by the Department shall also be addressed.
2. The status of compliance with any compliance schedule established by this permit or by any modifications to this permit.
3. A summary of all revisions to the approved management plan.
4. A summary of the data, including monitoring data, that is generated within the reporting period including a narrative description of storm water quality improvements or degradation.
5. An estimate of the previous fiscal year's expenditures for implementation of the management plan and the budget for the current fiscal year.
6. A summary describing the number and nature of inspections, enforcement actions, illicit discharges discovered, ordinances adopted, public education programs conducted, components of the MS4 cleaned, stream restoration activities, meetings held and any other actions taken by the permittee required by this permit during the reporting period.

PART IV. SPECIAL CONDITIONS

Only storm water, allowable non-storm water, and pollutants for which an NPDES permit has been issued and when the discharge is in compliance with the permit, are allowed to be discharged to the MS4. The permittee shall not have nor allow any discharge of pollutants from a site, facility or source for which an NPDES permit is required unless an NPDES permit has been issued for the discharge. Upon discovery of any unpermitted discharge for which a permit is required or, if an NPDES permit has been issued for the discharge, a discharge not in compliance with the permit, the permittee shall report the discharge to the Department no later than the end of the next business day after the discharge is discovered. Floor drains and other potential sources of pollutants shall be considered discharges even if no actual pollutants have been observed entering the MS4 from such a source.

The permittee is prohibited from issuing any permit, authorization or license allowing any construction, excavating, clearing, grubbing, or any other soil disturbing activity and is prohibited from allowing a person, persons, company, political unit or other entity, public or private, from doing same for which, in whole or as part of another project, coverage under an NPDES permit is required without first ensuring that a storm water authorization from the Department has been issued for the activity.

A construction site inspection program shall be developed and implemented for construction projects owned or operated by the permittee that include areas of soil disturbance for which NPDES permits are required. The inspection program shall be used to ensure that contractors are correctly implementing

BMPs which have been approved in the pollution prevention plan and any additional necessary measures. The program shall require inspections by the permittee at least every 7 days and within 2 business days of a 0.50 inch or greater rain event and include any other provisions necessary to ensure compliance by contractors with the storm water General Permit no. 2. Inspections required by General Permit no. 2 must also be conducted by the contractors or the permittee including inspections within 24 hours of the end of a 0.50 inch or greater rain event.

All salt storage shall be in a structure impervious to precipitation and any spillage due to handling activities in an area subject to runoff shall be immediately removed.

The manner in which actions required by this permit are accomplished by the permittee is subject to review and approval by the Department. Should the Department give notice to the permittee that the approach used by the permittee to comply with any permit provision is unacceptable, the permittee must modify its approach as required in order to be considered in compliance with the permit.

PART V. STANDARD CONDITIONS

A. Permittee's Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. Issuance of this permit does not relieve you of the responsibility to comply with all local, state and federal laws, ordinances, regulations or other legal requirements applying to the operation of your facility (see 40 CFR 122.41(a) and 567-64.3(11) IAC).

B. Duty to Provide Information

The permittee shall furnish to the Department, within a time specified by the Department, any information that the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to the Director, upon request, copies of any records required to be kept by this permit.

C. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Signatory Requirements

Storm Water Pollution Prevention Plans, reports, certifications or information either submitted to the Department or that this permit requires be maintained by the permittee, shall be signed as follows:

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes 1) the chief executive officer of the agency, or 2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

Certification Any person signing documents shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

E. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

F. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

G. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

H. State/Environmental Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes, regulations or permits.

I. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of storm water pollution prevention plans. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by the permittee only when necessary to achieve compliance with the conditions of the permit.

J. Inspection and Entry

The permittee shall allow the Department, an authorized representative or an authorized representative of the municipal operator of the separate storm sewer receiving the discharge, upon the presentation of credentials and other documents as may be required by law, to: enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit; have access to and copy at reasonable times, any records that must be kept

under the conditions of this permit; inspect at reasonable times any facilities or equipment (including monitoring and control equipment); and to sample any discharge of pollutants.

K. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or discontinuance, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. This permit may be modified due to conditions or information on which this permit is based, including any new standard the Department may adopt that would change the required effluent limits.

L. Potential or Realized Impacts on Water Quality

If there is evidence indicating potential or realized impacts on water quality or on a listed endangered species due to any storm water discharge associated with industrial activity covered by this permit, the permit shall be modified to include different limitations and/or requirements of the Pollution Prevention Plan and its implementation.

M. Failure to submit fees

This permit may be revoked, in whole or in part, if the appropriate permit fees are not submitted within sixty (60) days of the date of notification that such fees are due.

N. Penalties For Violations of Permit Conditions

Section 309 of the CWA provides significant penalties for a person(s) who violates a permit condition implementing Section 301, 302, 306, 307, 318, or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under Section 402. Any person(s) who violates any condition of this permit is subject to a civil penalty not to exceed \$25,000 per day of such violation, as well as any other appropriate sanction provided by Section 309 of the CWA.

PART VI. DEFINITIONS

Allowable Non-Storm Water means: discharges from fire fighting activities, fire hydrant flushings, potable water sources, waterline flushings, uncontaminated groundwater, foundation or footing drains where flows are not contaminated with process materials such as solvents, springs, riparian habitats, wetlands, irrigation water, air conditioning condensate, exterior building washwater when no detergents or other surfactants are used and pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred and when no detergents or other surfactants are used.

Best Management Practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Calendar Quarter means each of the following periods: December thru February, March thru May, June thru August and September thru November.

CWA means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972).

Department means the Iowa Department of Natural Resources (IDNR) or an authorized representative.

Discharge means the release of water and any elements, compounds and particles contained within or upon, from property owned or controlled by an individual, individuals, or entity.

Facility means any entity which discharges storm water.

Municipal separate storm sewer system means the conveyance or system of conveyances including storm sewers, roadways, roads with drainage systems, catch basins, curbs, gutters, ditches, constructed channels and storm drains owned or operated by the permittee.

Permittee means the City of Johnston.

Point source means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Significant materials includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); any chemical the facility is required to report pursuant to Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program. For the categories of industries identified in paragraphs (i) through (x) of this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the categories of industries identified in paragraph (xi) of this definition, the term includes only storm water discharges from all areas (except access roads and rail lines) listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are Federally, State, or municipally owned or operated that meet the description of the facilities listed in paragraphs (i) to (xi) of this definition) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection.

Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N (except facilities with toxic pollutant effluent standards that are exempted under category (xi) of this definition);

Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;

Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(i) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations that have been released from applicable State or Federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but that have an identifiable owner/operator;

Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;

Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection) including those that are subject to regulation under Subtitle D of RCRA;

Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;

Steam electric power generating facilities, including coal handling sites;

Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45 and 5171 that have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or that are otherwise identified under paragraphs (i) to (vii) or (ix) to (xi) of this subsection are associated with industrial activity;

Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR Part 503;

Construction activity including clearing, grading and excavation activities that result in the disturbance of 1 acre or more of total land area or which result in the disturbance of less than 1 acre but are part of a larger common plan of development or sale of 1 acre or more;

Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25, (and that are not otherwise included within categories (i) to (x)).

Waters of the State means any river, stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system and any other body or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.